

## NOTICE OF EXEMPTION

To: Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044, 1400 Tenth Street, Room 212  
Sacramento, CA 95812-3044

From: Department of Toxic Substances Control  
Office of Military Facilities  
5796 Corporate Avenue  
Cypress, California 90630

**Project Title:** Corrective Action Complete Determination for FOST Parcels (Parcel IV and Portions of Parcels I, II, and III) and Change of Facility Boundaries at Former Marine Corps Air Station El Toro, CA

**Project Location – Specific:** Former Marine Corps Air Station, El Toro

**Project Location – City:** Irvine

**Project Location – County:** Orange

**Description of Project:**

The Department of Toxic Substances Control (DTSC) is making a determination that corrective action has been completed for approximately 2,798 acres of property at the former Marine Corps Air Station, El Toro (MCAS El Toro) as identified in Final Finding Of Suitability to Transfer (FOST) (Parcel IV and Portions of Parcels I, II, and III) dated July 2004. These parcels were subject to corrective action requirements of the California Hazardous Waste Control Law and the federal Resource Conservation and Recovery Act (RCRA) because they were part of the property of MCAS El Toro, which is an inactive RCRA hazardous waste facility. MCAS El Toro had a RCRA permit that expired in 2003. The RCRA corrective action requirements for the FOST parcels have been completed through investigation and cleanup actions overseen by DTSC, the Regional Water Quality Control Board, Santa Ana Region (RWQCB), and the United States Environmental Protection Agency (U.S. EPA) under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA); and by underground/aboveground storage tank investigation and cleanup actions overseen by the RWQCB and Orange County Health Care Agency. This RCRA corrective action complete determination allows the Department of the Navy to transfer identified parcels to new owners without transferring the associated RCRA corrective action liability. There are no additional physical activities associated with this corrective action complete decision by DTSC for the MCAS El Toro FOST parcels. There are building use restrictions associated with the property transfer due to the presence of lead-based paint and asbestos containing building materials on buildings.

The Navy is retaining approximately 994.7 acres of the facility where closure and corrective action have not been completed. This retained property remains subject to RCRA closure and corrective action requirements. On April 26, 2004, the Department of the Navy submitted to DTSC a map showing the new boundaries of the former MCAS El Toro hazardous waste facility after carving out the FOST parcels. Consistent with its proposed decision that RCRA corrective action has been completed, DTSC is changing the boundaries of the former MCAS El Toro RCRA hazardous waste facility property.

**Background**

Construction of the former MCAS El Toro began in July 1942, and was commissioned in March 1943. El Toro was a USMC pilot's fleet operational training center and air station in support of Fleet Marine Forces, Pacific. Station activities included aircraft operations and maintenance. The 1990 Defense Base Realignment and Closure Commission (BRAC) recommended MCAS El Toro for closure. MCAS El Toro was operationally closed in 1999. MCAS El Toro occupied 4,712 acres until recently. In 1998, 23 acres were transferred to the California Department of Transportation for an expansion of California Interstate 5. In 2001, 896.7 acres of the northeast portion were transferred to the Federal Aviation Administration. Of the remaining 3,792.7 acres, the FOST parcels make up approximately 2,798 acres. Ownership of approximately 994.7 acres not currently suitable for transfer is being retained by the U.S. Navy until environmental response actions including closure and corrective action are completed. 921 acres of the retained property are proposed to be leased under a separate Finding of Suitability to Lease (FOSL). The FOSL established restrictions necessary to allow use of the property without impeding environmental cleanup and to prevent human exposure to hazardous substances during cleanup.

MCAS El Toro was listed on the U.S. EPA National Priorities List and signed a Federal Facility Agreement under CERCLA in 1990. Since then, MCAS El Toro has been performing the CERCLA environmental clean up and restoration of the former base under the guidance and regulatory authority of DTSC, the RWQCB Santa Ana Region, and the U.S. EPA.

Petroleum releases and investigation and cleanup of underground storage tanks and aboveground storage tanks have been performed under the guidance and regulatory authority of the RWQCB and Orange County Health Care Agency.

### The Finding of Suitability to Transfer (FOST) Parcels

The "Final Finding of Suitability to Transfer (Parcel IV and Portions of Parcels I, II, and III), Former MCAS El Toro, California," dated July 2004, summarizes the investigation and cleanup of releases of hazardous substances on the parcels. The FOST was available for public review concurrent with DTSC's proposed Corrective Action Complete Determination from May 3, 2004 to June 17, 2004. The purpose of a FOST for the United States Department of the Navy is to document environmentally related findings that support the conclusion that real property made available through the Base Realignment and Closure (BRAC) process at the former MCAS El Toro, California, is suitable for transfer by deed per provisions of Section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). In addition, the FOST identifies disclosure notifications and use restrictions, as specified in the Notifications and Restrictions section, necessary to protect human health or the environment.

The FOST parcels include approximately 2,798 acres of developed and undeveloped land on 4 parcels. Each of the parcels was evaluated for areas where a hazardous substance release is suspected to have occurred; where a documented release has occurred; or, based on the types of activities that occurred in an area, had the potential for a past release. These areas are identified as Locations of Concern or LOCs. The LOCs include sites where waste was handled, known spill or disposal sites, storage tanks, waste-water treatment system sites, PCBs transformers, and other miscellaneous sites. The FOST documents that corrective action has been completed for all LOCs and references associated no further action status decision documents. Please note that the actual number of LOCs is 430, however, some LOCs are located in more than one parcel.

The portion of Parcel I proposed for transfer, also known as Transfer Parcel I-A, consists of approximately 809.5 acres in the northwest portion of the facility. It contains 225 buildings/structures including residential and commercial buildings. Parcel I-A has 218 Locations of Concern (LOCs) which were investigated for contaminant releases.

The portion of Parcel II proposed for transfer, also known as Transfer Parcel II-A, consists of approximately 1,439.6 acres in the central portion of the facility. It contains 1078 buildings/structures and 201 LOCs.

The portion of Parcel III proposed for transfer, also known as Transfer Parcel III-A, consists of approximately 329 acres in the southwest portion of the facility. It contains 10 buildings/structures and 17 LOCs.

Parcel IV is proposed to transfer in its entirety and consists of approximately 219.4 acres at the southernmost extent of the facility. It consists of agricultural lands and contains no structures or LOCs.

The FOST includes a Notifications and Restrictions section which provides warranted notifications and/or restrictions on certain activities to ensure post-transfer use of the FOST parcels is protective of human health and the environment. Notifications are disclosures associated with each parcel such as locations of the Locations of Concern and typical real property disclosures including but not limited to: use and storage of hazardous substances and petroleum products, closed CERCLA cleanup sites, former underground and aboveground storage tanks, wastewater treatment and related systems such as oil-water separators and wash racks, polychlorinated biphenyls containing transformers and storage areas, pesticide use, asbestos containing building materials and lead-based paint. Since many of the buildings are proposed for demolition after transfer, asbestos and lead-based paint abatement has not been completed in all buildings. Specific restrictions limit or prevent certain occupancy or use of these buildings pending either asbestos-containing material and lead paint surveys and abatement or proper demolition. Restrictions discussed in the FOST will be incorporated into the deeds of affected properties within the FOST parcels.

Boundaries between the FOST parcels and retained property were established using: 1) site characterization, 2) buffer zones established in Records of Decisions for Installation Restoration Program Sites, 3) buffer zones established by the California Integrated Waste Management Board for landfills, and 4) conservative estimates of the extent of probable contamination including allowance for adequate staging area used for sites needing further evaluation.

Finally, in accordance with CERCLA, the FOST provides for Right of Access and Covenant. CERCLA requires that for any property transferred from federal ownership to non-federal public or private ownership, the deed will contain a warranty. In effect, the deed for transfer of any property on which a Location of Concern is identified will include a covenant, warranting that all remedial action necessary to protect human health and the environment with respect to any hazardous substances remaining on the property has been taken before the date of such transfer and that any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.

Name of Public Agency Approving Project: Department of Toxic Substances ControlName of Person or Agency Carrying Out Project: Department of Toxic Substances Control

## Exempt Status: (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);  
☐ Declared Emergency (Sec. 21080(b)(3); 15269(A));  
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));  
☐ Categorical Exemption. State type and section number: \_\_\_\_\_  
☐ Statutory Exemptions. State code number: \_\_\_\_\_  
☒ General Rule (Sec. 15061(b)(3))

Exemption Title: With certainty, no possibility of a significant environmental effect.

## Reasons Why Project is Exempt:

1. The project does not involve any physical activities at the former MCAS El Toro. The project is an administrative decision by DTSC that previously completed investigations and cleanup activities conducted under the regulatory oversight of DTSC, the U.S. EPA, the Regional Water Quality Control Board, Santa Ana Region, and the Orange County Health Care Agency, on the property identified in the Finding of Suitability to Transfer (FOST) as Parcel IV and Portions of Parcels I, II, and III, have satisfied the corrective action requirements under RCRA and California Hazardous Waste Control Law. The boundary defining the former MCAS El Toro hazardous waste facility is being modified to exclude the FOST property. No offsite impacts will occur as a result of moving the facility boundaries.

2. The entire former El Toro is listed on the Hazardous Waste and Substances Site List and on the Calsites List. However, for the FOST parcels, all environmental studies and remedial action under CERCLA necessary to protect human health and the environment with respect to hazardous substances remaining on the property have been taken. On this basis, DTSC finds that RCRA corrective action is complete for these parcels.

  
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DTSC Branch Chief Signature7/23/04  
Date

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Chief, Southern California Branch,  
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DTSC Branch Chief Name

DTSC Branch Chief Title

## TO BE COMPLETED BY OPR ONLY

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